IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Civil Writ Petition No. 7703 of 1987

Date of decision: July 25, 2007

M/s. Khazanchi Lal Ishwar Chand ... Petitioner

Versus

The Market Committee, Barwala,
District Hissar through its Executive
Officer-cum-Secretary, and another ... Respondents.

...

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

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Present: Mr. Jaswant Jain, Advocate
for the petitioner.

Mr. Suvir Sehgal, Advocate
for respondent no.1.

Mrs. Palika Monga, AAG Haryana
for respondent no.2.

...

JUDGMENT:

The petitioner has approached this Court by filing the present petition praying for the quashing of impugned demand letters, Annexures P-4 and P-5 seeking to recover a sum of Rs.63,576.96 as market fee from the petitioner.

2. Much facts are not required to be narrated in detail as the issue raised in the petition is covered by a judgment of this Court in **M/s. Puri Oil Mills Limited** v. **Haryana State Agricultral Marketing Board, Panchkula and another**,(1997-1) 115 P.L.R 226 and various other judgments laying down the same principle.

3. The primary contention raised by the learned counsel for the

petitioner is that the demand of market fee is sought to be raised and enforced against the petitioner, even as arrears of land revenue, without there being any order of assessment passed following the procedure laid down under the Punjab Agricultural Produce Markets Act, 1961 and the Rules framed thereunder. All what has been stated in reply to the allegations of the petitioner is that a notice demanding market fee from the petitioner contains the entire details and that notice has been issued to the petitioner after going through the accounts of the petitioner in detail.

4. In **M/s. Puri Oils Mills** 's case (supra), a similar issue was under consideration where this Court held as under :-

> " 3. Admittedly, no assessment has been framed and without framing the assessment no demand could be raised, against the petitioner. Allegation against the petitioner was that it had purchased large quantity of Sarson and Toria from other States and that it had neither deposited the market Fee and the HRDF, nor the LL Forms in the office of the Market Committee, Bahadurgarh. Straightaway, it was asked to deposit the Market Fee and the HRDF within 7 days from the receipt of the notice, Annexure P-1. With the notice, respondents had also attached the details of the transactions on which Market Fee and the HRDF had not been paid. Petitioner was at least entitled to a notice calling upon it to explain the purchases made by it of Sarson and Toria from other States on which it had allegedly not paid the Market Fee and the HRDF. Basic principle of justice is that nobody can be condemned unheard. In this case, petitioner has been fastened with the liability of more than Rs.75,000/- in an arbitrary manner without affording adequate opportunity to defend itself.

4. For the reasons stated above, notice, Annexure P-1, being violative of the principles of natural justice, is quashed. Petitioner shall be at liberty to file its reply to the show cause notice, Annexure R-1, within three weeks from today, which shall be dealt with by the Market Committee, Bahadurgarh, respondent no.2, in accordance with law, after affording adequate opportunity of hearing to the petitioner. Respondent no.2 shall also be at liberty to frame the assessment in accordance with law, after affording due opportunity to the petitioner. "

5. As admittedly in the present case, no assessment order has been passed, the action of the respondents in seeking to recover the amount of market fee merely by issuing notice cannot be sustained and has to be declared illegal.

6. Accordingly, impugned notices, Annexures P-4 and P-5 are quashed with liberty to respondent no.1 to proceed in accordance with law to frame assessment and recover amount of market fee, if found due from the petitioner. It is, however, made clear that the action, if any, sought to be taken by respondent no.1 to frame assessment, will not be prejudiced on account of delay in issue of notice or framing the assessment as the matter had remained pending in this Court with interim order in favour of the petitioner.

7. The writ petition is disposed of in the manner indicated above with no order as to costs.

(RAJESH BINDAL)
JUDGE

July 25, 2007
RS